

# **EXHIBIT B**

**From:** Gringer, David David.Gringer@wilmerhale.com  
**Subject:** RE: FERPA Motion M&C  
**Date:** November 29, 2023 at 6:26 PM  
**To:** Natasha Zaslove nzaslove@gilbertlitigators.com  
**Cc:** David Copeland dcopeland@gilbertlitigators.com, 568\_litigation@gilbertlitigators.com, 568 Litigation 568\_Litigation@fnf.law, 568GROUP-DEFS-SERVICE@list.wilmerhale.com, Fenske, Daniel T. DFenske@mayerbrown.com

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David and Natasha,

Thank you for our productive meet and confer this afternoon. As noted on the call, Penn is committed to trying to resolve this issue.

As discussed, Penn would agree to the following, if it fully resolves the issues raised in Monday's motion to compel:

1. For Penn's non-objecting students we will give you a chart matching UID to name. That chart will allow plaintiffs to discern admission records and BSI or USI tags for all students at issue from Penn's structured data, plus all communications with Penn admissions about those students and their families. Penn will be able to provide you with this chart by early next week.
2. Penn will search produced documents from the agreed-upon custodians and share files for the individual student names on the list and will produce in unredacted form any documents with the non-objecting student or parent names. For the avoidance of doubt, Penn will not be searching documents from any new custodians nor will it expand the scope of its productions just because of the FERPA order. And as we discussed on the call, the FERPA order necessarily cannot require us to produce documents you did not request in your RFPs to begin with. That said, we believe that what you will be getting are the relevant documents that exist for the non-objecting students at issue.
3. If the judge overrules all or some of the remaining students' FERPA objections, we will do the same as the above for those students.

In return, Plaintiffs will withdraw their motion to compel as to Penn in its entirety and they will not re-file a new motion to compel against Penn seeking the material demanded in your current motion to compel. Additionally, Plaintiffs will allow Penn to serve a reasonable number of interrogatories and RFAs related solely to those students qualifications for admission to Penn or otherwise agree to work with Penn on a stipulation as those students objective qualifications and a reasonable benchmark to assess their qualifications.

One final point—as I see it, this is at least the second time in recent weeks that Plaintiffs filed a motion to compel without complying with Local Rule 37.2. As you noted on the call today and as your colleagues have previously noted, meet and confers between Penn and Plaintiffs have typically been productive with issues in dispute resolved quickly and pragmatically. Today, as we pledged to do last week, we came prepared with a proposal to resolve the issues in dispute. No one could (or did) say that our proposal was an insincere attempt to resolve the issue. The local rule requirement on meet and confers before discovery disputes is a sound one as it prevents undue expense to the parties and more importantly, undue burden to the Court. Penn asks that going forward you honor the rule and its spirit without reminder.

Sincerely,

David

**David Gringer | WilmerHale**

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**From:** Natasha Zaslove <[nzaslove@gilbertlitigators.com](mailto:nzaslove@gilbertlitigators.com)>  
**Sent:** Wednesday, November 29, 2023 6:09 PM  
**To:** Gringer, David <[David.Gringer@wilmerhale.com](mailto:David.Gringer@wilmerhale.com)>  
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**Subject:** Re: FERPA Motion M&C

**EXTERNAL SENDER**

David,

Following up our call today, we are standing by for the written proposal you outlined. Please provide by today or no later than tomorrow, so we can consider on our end.

Thank you,

Natasha Zaslove  
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Gilbert Litigators & Counselors, P.C.  
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On Nov 28, 2023, at 6:10 PM, 'Gringer, David' via 568\_litigation <[568\\_litigation@gilbertlitigators.com](mailto:568_litigation@gilbertlitigators.com)> wrote:

We can do 4:30. Counsel for Georgetown will also be joining. Could I

We can do 4:00. Counsel for Georgetown will also be joining. Could I trouble you to send an invite?

Sincerely,

**David Gringer | WilmerHale**

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**From:** Natasha Zaslove <[nzaslove@gilbertlitigators.com](mailto:nzaslove@gilbertlitigators.com)>  
**Sent:** Tuesday, November 28, 2023 8:41:00 PM  
**To:** Gringer, David <[David.Gringer@wilmerhale.com](mailto:David.Gringer@wilmerhale.com)>  
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**Subject:** FERPA Motion M&C

**EXTERNAL SENDER**

David,

Please let us know your availability to meet and confer with David Copeland and me tomorrow, Wednesday November 29 between 3:00 and 5:00 p.m. ET with respect to production of education records of the Penn students who have not filed objections.

Plaintiffs' motion on this issue will be withdrawn pending the meet and confer. If the meet and confer does not result in a resolution, Plaintiffs' motion will be updated as necessary and refiled.

Regards,

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